

**EASEMENT, RESTRICTION AND NON-INTERFERENCE AGREEMENT**

**THIS AGREEMENT** is made and entered into this 30th day of September, 2005 by and between the Rod and Gun Club of New Bedford, Inc., a Massachusetts non-profit corporation having a usual place of business in North Dartmouth, Bristol County, Massachusetts, (the "Club") and the "Settling Defendants" as defined in a Consent Decree filed with the United States District Court for the District of Massachusetts on February 9, 1989 in U.S. v. ADAC Corporation et al. (Civil Action No. 89-0306-S) and in Commonwealth of Massachusetts v. ADAC Corporation et al. (Civil Action No. 89-0307-S) (the "Consent Decree"), which Consent Decree was entered by said Court on May 31, 1989. For certain purposes, as hereinafter set forth, the Settling Defendants are acting by and through the ReSolve Site Group, an incorporated association made up of the Settling Defendants, (the "ReSolve Site Group").

**WITNESSETH:**

**WHEREAS**, the Club is the owner of certain real property consisting of approximately 179.62 acres of land situated easterly of the ReSolve, Inc. Superfund Site (the "Site"), which Site is located off North Hixville Road in North Dartmouth, Bristol County, Massachusetts; the said real property owned by the Club being more particularly described in Exhibit A hereto which is made part hereof (the "Club's Land");

**WHEREAS**, the Site was designated pursuant to the provisions of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq. ("CERCLA") in September, 1983 by the United States Environmental Protection Agency ("EPA") as a Superfund National Priorities List site;

**WHEREAS**, EPA, The Commonwealth of Massachusetts (the "Commonwealth") and the Settling Defendants have entered into the Consent Decree pursuant to which the Settling

*Return to:  
Michael P. Last, Esq.  
One Financial Center, 28th Floor  
Boston, MA 02111*



Defendants are authorized and required to perform certain response actions at the Site (the "Work");

**WHEREAS**, that part of the Work constituting the Management of Migration Remedy is still being performed and will continue to be performed in the future;

**WHEREAS**, the Management of Migration Remedy involves extracting contaminated groundwater by means of pumping from a series of recovery wells so as to contain the contaminated groundwater on the Site and then treat it in order to satisfy the Clean-Up Standards set forth in the Consent Decree;

**WHEREAS**, as part of the Work, including as part of the Management of Migration Remedy, the Settling Defendants' are also monitoring water quality by periodically sampling groundwater monitoring wells located on the Club's Land;

**WHEREAS**, the Settling Defendants' studies and groundwater modeling conducted pursuant to the Consent Decree indicate that if wells or other pumping devices or mechanisms (hereinafter collectively referred to as "wells and/or other pumping devices") which extract groundwater are installed in the area marked as "Easement 'A' Area = 25.4± Acres" (the "Easement Area") on the plan entitled "Easement Plan of Land Located in Dartmouth, Massachusetts (Bristol County) prepared for ReSolve Site Group, Scale 1" = 80', Date: September 30, 2005" prepared by Meridian Associates, Inc., (the "Easement Plan") to be recorded herewith with the Bristol County Southern District Registry of Deeds (the "Registry of Deeds"), the containment of the contaminated groundwater achieved by the Management of Migration Remedy could be compromised so that contaminants could be induced to flow from the Site and potentially adversely impact public health and/or the environment; and

**WHEREAS**, in order to help assure the continuing integrity and protectiveness of the Management of Migration Remedy, the Group has requested that the Club enter into this Easement, Restriction and Non-Interference Agreement, and the Club is willing to do so upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the foregoing, of the Settling Defendants' conducting the Work and other activities authorized by or related to the Consent Decree, which Work and other activities benefit the Club's Land, of the covenants and agreements set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

**1. Easements.**

The Club hereby grants to the Benefited Parties (as defined in Paragraph 6 hereof) the right and easement to enter upon the Club's Land, with men, vehicles and equipment and machinery in order to plan for, undertake and conduct that portion of the Work and other activities authorized by or related to the Consent Decree which involves:

- (a) maintaining, repairing or replacing the existing monitoring wells;
- (b) installing, maintaining, repairing or replacing one or more new monitoring wells to the extent necessary to satisfy the requirements of the Consent Decree and the Scope of Work and Work Plans to be implemented thereunder; and
- (c) monitoring and sampling groundwater.

In the exercise of the rights granted hereunder, the Club shall be provided with at least 48 hours notice in advance of any activities on the Club's Land that will consist of more than routine monitoring and/or sampling of existing wells, will involve more than one vehicle, or will involve the use of drilling or excavation equipment (except that such notice shall not be required

in the event of an emergency or similar urgent condition affecting the operation of the groundwater extraction and treatment system and/or the effective containment of groundwater at the Site).

**2. Restoration.**

The ReSolve Site Group, agrees to restore any damage that it or its employees, agents or contractors may cause to the Club's Land as a result of the exercise of the easement rights set forth in Paragraph 1 hereof. In the event that any such damage occurs, the Club shall be notified in writing thereof with forty-eight (48) hours, and the damage shall be repaired or restored to the reasonable satisfaction of the Club within thirty (30) days thereafter, provided, however, that if due to inclement weather, seasonal conditions or other factors beyond the reasonable control of the Group the repair or restoration work cannot be undertaken so as to be completed within said thirty (30) day period, then it shall be initiated and diligently pursued to completion as soon as practicable thereafter.

**3. Indemnification.**

The ReSolve Site Group agrees to indemnify, defend and hold harmless the Club from and against any and all claims, loss, liability, damage and expense, including reasonable attorneys' and experts' fees, on account of any claims or lawsuits of any nature or type which may be asserted or brought against the Club as a result of the exercise of the easement rights set forth in Paragraph 1 hereof.

**4. Restrictions.**

The Club covenants and agrees that, during the term hereof, the Easement Area shall be subject to the following restrictions: No wells and /or other pumping devices which pump or extract groundwater shall be permitted to be installed or operated at, in, upon or under the Easement Area, and no groundwater may be pumped or extracted from, at, in or upon the Easement Area.

**5. Non-Interference with the Work.**

The Club covenants and agrees that neither it nor its successors or assigns (including, without limitation, its successors in title to the Club's Land) nor any person claiming by, through or under it shall take or cause to be taken any action(s) which will interfere with the exercise of the easement rights set forth in Paragraph 1 hereof or the implementation of the restrictions set forth in Paragraph 4 hereof.

**6. Parties and Land Benefited.**

This Easement, Restriction and Non-Interference Agreement shall be for the benefit of the Site and also shall be for the express benefit of and enforceable by each of the following parties (the "Benefited Parties"): the owner(s) of the Site; the ReSolve Site Group; each of the members of the ReSolve Site Group; EPA; the Commonwealth of Massachusetts; and each of the aforesaid parties' respective successors (including, as applicable, successor regulatory agencies) and assigns.

**7. Continued Enforceability of Restrictions; Power of Attorney.**

It is intended that the easements, restrictions and covenants set forth in this Agreement shall remain in full force and effect until terminated as provided in Paragraph 13 hereof. To the extent necessary or desirable in order to assure that said easements, restrictions or comments

remain in full force and effect, each of the Benefited Parties and its respective successors and assigns are authorized to record or file any notices or instruments pursuant to the provisions of Massachusetts General Laws Chapter 184, Sections 26-29, any successor provisions thereto and/or any other applicable laws or regulations appropriate to assuring the continued enforceability of this Agreement and the restrictions set forth herein; and for the purpose of executing, delivering, recording and filing such notices or instruments the Club hereby appoints each of the Benefited Parties and their respective successors and assigns as its attorney-in-fact, with full power of substitution in the premises. The said power of attorney is coupled with an interest and shall be irrevocable.

**8. Inspection.**

Upon advance notice of not less than forty-eight (48) hours (except that such notice shall not be required in the event of an emergency or similar urgent condition affecting the operation of the groundwater extraction and treatment system and/or the effective containment of groundwater at the Site), the Benefited Parties and their employees, agents and contractors may inspect the Restricted Area to ensure that the Club is in compliance with the restrictions hereby imposed. For this purpose, the Club grants the Benefited Parties and their employees, agents and contractors access to the Easement Area. The failure of the Benefited Parties to exercise this right of inspection for any period of time, however, shall not be construed as a waiver of such right.

**9. Enforcement.**

The Club and each of the Benefited Parties shall have the right to enforce this Agreement by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations. The exercise by any of such parties of one remedy hereunder shall not have the effect

of waiving or limiting any other permitted remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time. All reasonable costs, attorneys' fees and experts' fees incurred by a party seeking to enforce this Agreement shall be paid by the party or parties (with such liability to be joint and several) determined to be in violation or breach hereof.

**10. Insertion in Subsequent Instruments.**

The Club and its successors in title to the Restricted Area shall insert a reference to this Easement, Restriction and Non-Interference Agreement, which reference shall include the Registry of Deeds Book and Page number of this Agreement, into any subsequent deed or other legal instrument by which the Club or such successor in title divests itself of either the fee simple title to or any lesser estate in the Club's Land. Concurrently with its entering into any such deed or other legal instrument, the Club or its successor in title to the Club's Land, as the case may be, shall give written notice of same to the ReSolve Site Group in accordance with the provisions of Paragraph 16 hereof. Failure by the Club or its successor in title to comply with the requirements of this Paragraph 10 shall not affect the validity, enforceability or priority of this Agreement.

**11. Confirmatory Documents.**

The parties agree to execute, deliver and record or file such instruments and documents as may be necessary from time to time to confirm the easements, restrictions and covenants herein set forth, including, without limitation, the notices and documents referred to in Paragraph 7 hereof, so that such easements restrictions and covenants shall remain in full force and effect in accordance with the terms and intent of this Agreement.

**12. Payments to the Club.**

In consideration of the easement granted by the Club under the provisions of Paragraph 1(b) hereof, the ReSolve Site Group agrees to pay to the Club for years 1 through 10 (measured from the date of this Agreement), the sum of One Thousand Dollars (\$1,000.00) per year; for years 11 through 20, the sum of One Thousand Five Hundred Dollars (\$1,500.00) per year; for years 21 through 30, the sum of Two Thousand Dollars (\$2,000.00) per year; for years 31 through 40, the sum of Two Thousand Five Hundred Dollars (\$2,500.00) per year; and thereafter the sum of Three Thousand Dollars (\$3,000.00) per year until termination. The first such payment shall be made in advance on the date of the execution and delivery of this Agreement by the Club to the ReSolve Site Group, and each subsequent such payment to be made in advance on the anniversary date of this Agreement each year thereafter until this Agreement shall be terminated. All payments made to the Club hereunder shall be nonrefundable.

**13. Termination.**

The easements and restrictions imposed by this Agreement, together with the covenants set forth herein, shall terminate and this Agreement shall no longer be of any force and effect upon the Settling Defendants' receiving from EPA a certification of completion of the Work pursuant to the provisions of Section XXX of the Consent Decree. Within sixty (60) days following such termination, the Settling Defendants (acting by and through the aforesaid ReSolve Site Group or its then successor entity) shall execute and record with the Registry of Deeds (or any successor office of public records thereto) an instrument evidencing and confirming the termination of this Agreement. If, within sixty (60) days following EPA's so certifying to the Settling Defendants completion of the Work, the Settling Defendants shall fail or refuse duly to execute and record an instrument evidencing and confirming the termination of



this Agreement (the "Confirmation of Termination") then the Club may execute and record such a Confirmation of Termination which shall recite the facts of (a) the Settling Defendants' receipt of said certification of completion of the Work from EPA and (b) the Settling Defendants' failure duly to execute and record the Confirmation of Termination.

**14. Governing Law; Interpretation.**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and shall be liberally interpreted so as to effect its remedial purpose of ensuring the protectiveness of the Management of Migration Remedy and ensuring non-interference with the performance of the Management of Migration Remedy and all other activities authorized by or related to the Consent Decree.

**15. Full Integration; Binding Effect.**

This Agreement shall constitute the full and complete understanding and agreement between the parties with respect to the subject matter hereof and shall supersede and terminate all other prior or contemporaneous understandings and agreements, whether oral or written, with respect to said subject matter. This Agreement shall constitute a binding servitude and shall run with the Club's Land for the benefit of the Site until terminated as provided in Paragraph 13 hereof and shall be binding upon all heirs, executors, administrators, personal representatives and successors and assigns of the parties hereto.

**16. Notices.**

All notices, requests, demands or other written communications shall be deemed duly given at such time as they are deposited into the United States mails sent by certified or registered mail, return receipt requested, addressed to:

**In the case of the Club:**

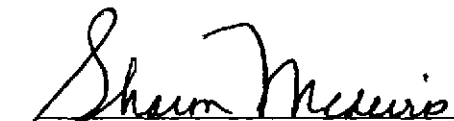
Rod and Gun Club of New Bedford, Inc.  
P.O. Box 79575  
North Dartmouth, MA 02747  
Attn: President

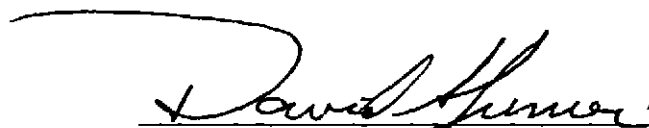
**In the case of the  
ReSolve Site Group:**

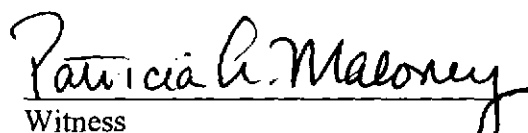
ReSolve Site Group  
c/o Michael P. Last, Esquire  
One Financial Center, 29<sup>th</sup> Floor  
Boston, MA 02111


**IN WITNESS WHEREOF**, this Easement, Restriction and Non-Interference Agreement has been signed, sealed and delivered by the undersigned, each of whom is duly authorized to do so, as of the date first above written.

**ROD AND GUN CLUB OF NEW  
BEDFORD, INC.**

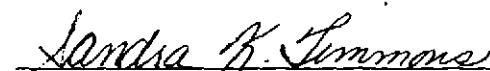
  
Witness


  
President

  
Witness

  
Treasurer

**RESOLVE SITE GROUP, an  
Unincorporated Association of  
the Settling Defendants**

  
Witness

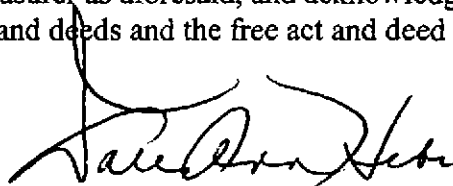
By:   
Michael P. Last, Its Executive Director

## COMMONWEALTH OF MASSACHUSETTS

Bristol, ss

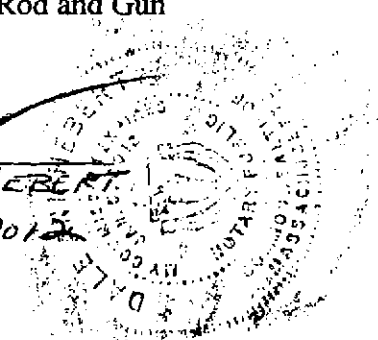
October 21, 2005

Then personally appeared the above-named DAVID S. JUNIER, President as aforesaid, and B. CURT KINGSBURY Treasurer as aforesaid, and acknowledged the foregoing instrument to be their respective free acts and deeds and the free act and deed of Rod and Gun Club of New Bedford, Inc., before me



Notary Public: DALE ANN HERBERT

My Commission Expires 1/5/2012



## COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

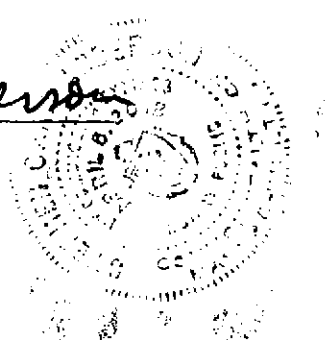
30 September 2005

Then personally appeared the above-named Michael P. Last, Executive Director as aforesaid, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the ReSolve Site Group, before me

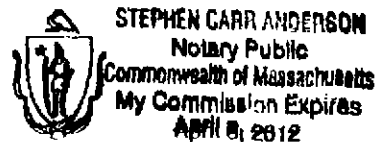


Notary Public:

My Commission Expires



A0348572.DOC;1



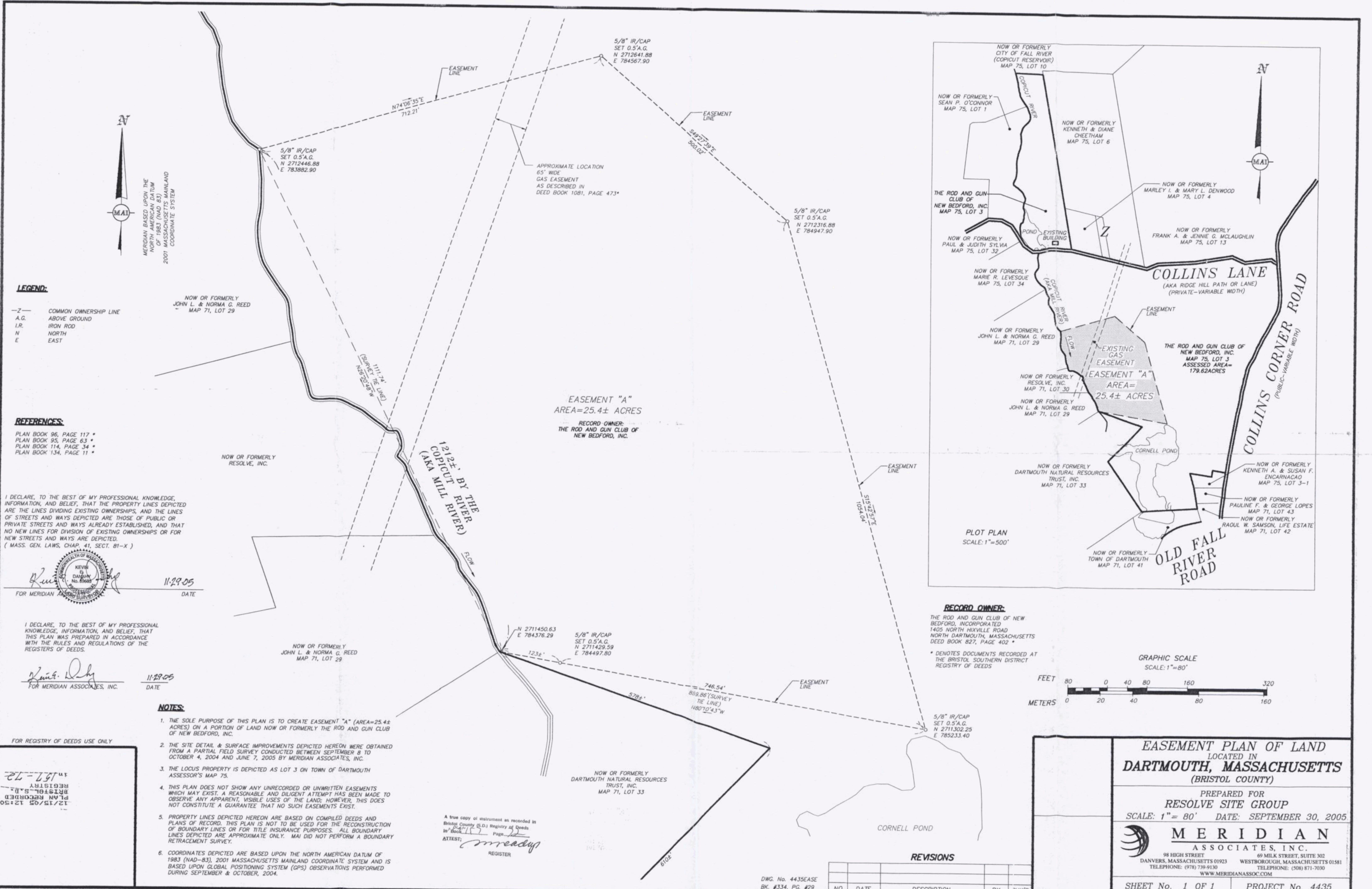
**EXHIBIT A  
TO EASEMENT, RESTRICTION AND  
NON-INTERFERENCE AGREEMENT**

The land in Dartmouth, Bristol County, Commonwealth of Massachusetts which is bounded and described as follows:

Beginning at a point in the northerly line of Collins Lane and at the southwesterly corner of land of William O. Collins et ux., thence running northerly in line of last named land about 2,020 feet to a corner; thence running southeasterly about 1,762 feet to an angle; thence running northerly about 2,108 feet to a corner; thence running westerly about 1,450 feet to the River; thence running southerly in line of the River and Pond across said Lane and continuing by the River to an angle; thence running southeasterly about 578 feet to an acute angle; thence running southwesterly about 610 feet to a corner; thence running southerly about 759 feet to a corner; thence running easterly about 715 feet to a corner; thence running northerly about 327 feet to a corner; thence running easterly about 363 feet to the Collins Corner Road; thence running northerly in line of said Road about 1,400 feet to an angle in said Road; thence continuing northerly in line of said Road about 906 feet to an angle; thence continuing northerly in line of said Road about 620 feet to Ridge Hill Path or Lane and thence running westerly in line of said Ridge Hill Path or Lane about 2,596 feet to the place of beginning.

Containing about 226 acres and 85 square rods, more or less, and being the same premises conveyed to the Rod and Gun Club of New Bedford, Inc. by deed of Gilbert N. Collins and Susan G. Heyworth dated April 20, 1940 and recorded with the Bristol County Southern District Registry of Deeds in Book 827, Page 402.





**LEGEND:**  
-Z- COMMON OWNERSHIP LINE  
A.G. ABOVE GROUND  
I.R. IRON ROD  
N NORTH  
E EAST

**REFERENCES:**  
PLAN BOOK 96, PAGE 117 \*  
PLAN BOOK 95, PAGE 63 \*  
PLAN BOOK 114, PAGE 34 \*  
PLAN BOOK 134, PAGE 11 \*

I DECLARE, TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THAT THE PROPERTY LINES DEPICTED ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF STREETS AND WAYS DEPICTED ARE THOSE OF PUBLIC OR PRIVATE STREETS AND WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIPS OR FOR NEW STREETS AND WAYS ARE DEPICTED.  
(MASS. GEN. LAWS, CHAP. 41, SECT. 81-X)

*Kevin B. Danahy*  
FOR MERIDIAN ASSOCIATES, INC. 11-29-05  
DATE

I DECLARE, TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.  
*Kevin B. Danahy*  
FOR MERIDIAN ASSOCIATES, INC. 11-29-05  
DATE

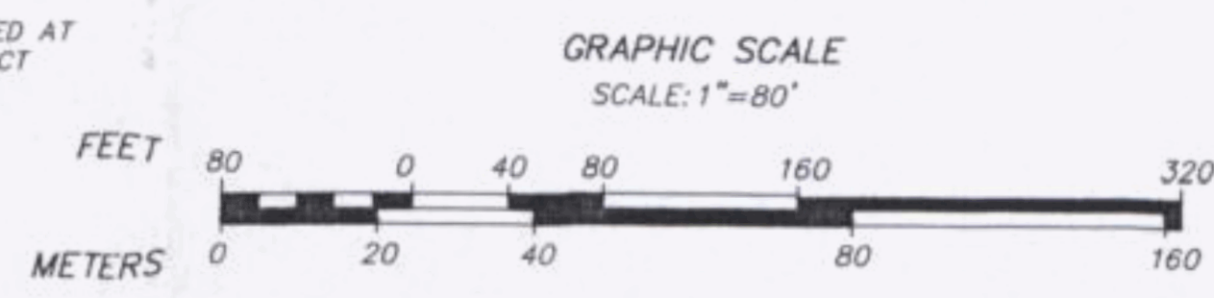
- NOTES:**
1. THE SOLE PURPOSE OF THIS PLAN IS TO CREATE EASEMENT "A" (AREA=25.4± ACRES) ON A PORTION OF LAND NOW OR FORMERLY THE ROD AND GUN CLUB OF NEW BEDFORD, INC.
  2. THE SITE DETAIL & SURFACE IMPROVEMENTS DEPICTED HEREON WERE OBTAINED FROM A PARTIAL FIELD SURVEY CONDUCTED BETWEEN SEPTEMBER 8 TO OCTOBER 4, 2004 AND JUNE 7, 2005 BY MERIDIAN ASSOCIATES, INC.
  3. THE LOCUS PROPERTY IS DEPICTED AS LOT 3 ON TOWN OF DARTMOUTH ASSESSOR'S MAP 75.
  4. THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT, VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
  5. PROPERTY LINES DEPICTED HEREON ARE BASED ON COMPILED DEEDS AND PLANS OF RECORD. THIS PLAN IS NOT TO BE USED FOR THE RECONSTRUCTION OF BOUNDARY LINES OR FOR TITLE INSURANCE PURPOSES. ALL BOUNDARY LINES DEPICTED ARE APPROXIMATE ONLY. MAI DID NOT PERFORM A BOUNDARY RETRACEMENT SURVEY.
  6. COORDINATES DEPICTED ARE BASED UPON THE NORTH AMERICAN DATUM OF 1983 (NAD-83), 2001 MASSACHUSETTS MAINLAND COORDINATE SYSTEM AND IS BASED UPON GLOBAL POSITIONING SYSTEM (GPS) OBSERVATIONS PERFORMED DURING SEPTEMBER & OCTOBER, 2004.

FOR REGISTRY OF DEEDS USE ONLY

157-72  
11/15/05 12:50  
PLAN RECORDED  
IN BOOK 4334  
PAGE 29

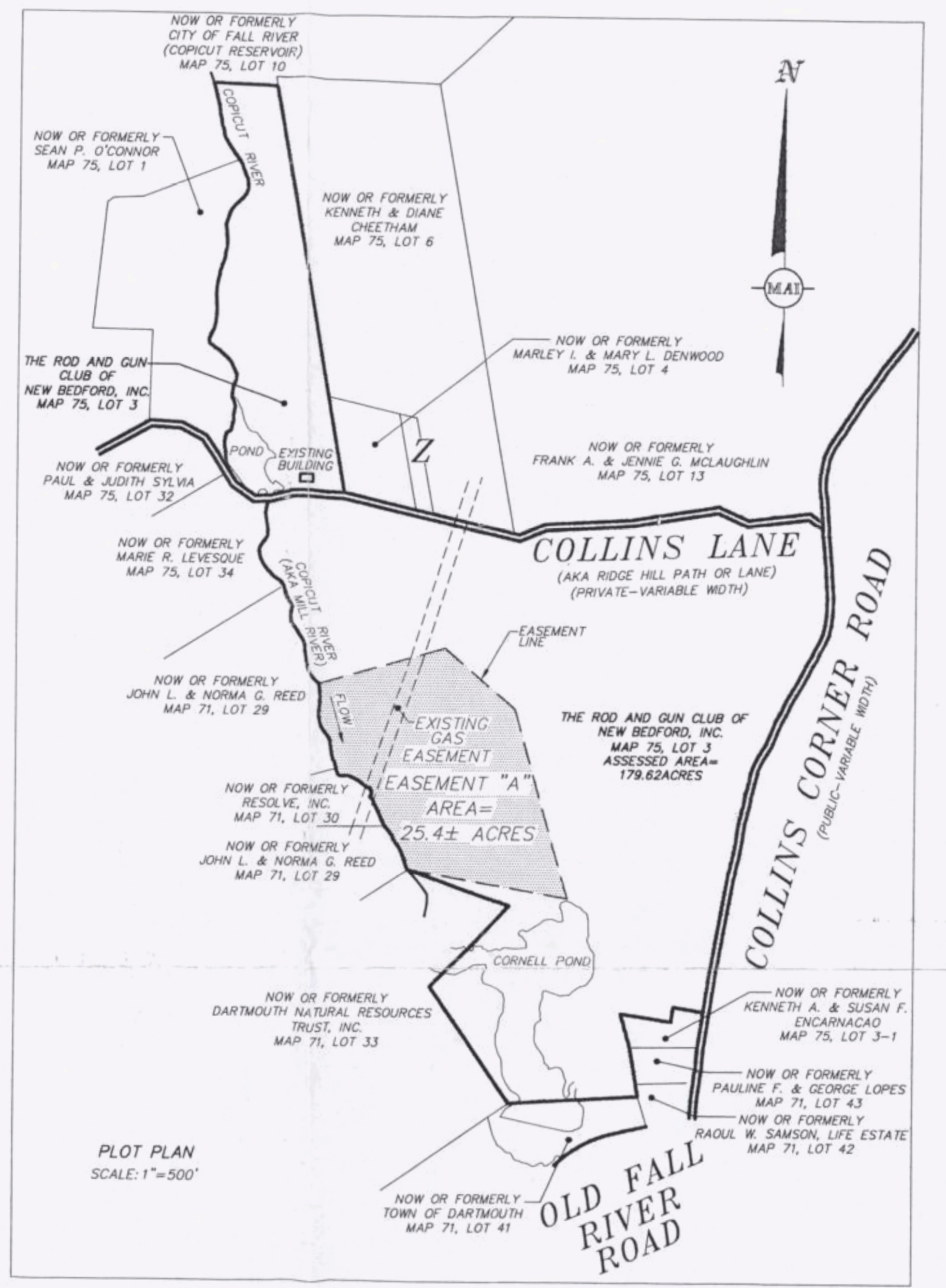
A true copy of instrument as recorded in  
Bristol County (S.D.) Registry of Deeds  
in Book 4334 Page 29  
ATTEST: *meady*  
REGISTER

**RECORD OWNER:**  
THE ROD AND GUN CLUB OF NEW BEDFORD, INCORPORATED  
1405 NORTH HIXVILLE ROAD  
NORTH DARTMOUTH, MASSACHUSETTS  
DEED BOOK 827, PAGE 402 \*  
\* DENOTES DOCUMENTS RECORDED AT THE BRISTOL SOUTHERN DISTRICT REGISTRY OF DEEDS



REVISIONS				
NO.	DATE	DESCRIPTION	BY	CHK'D

DWG. No. 4435EASE  
BK. #334, PG. #29



**EASEMENT PLAN OF LAND**  
LOCATED IN  
**DARTMOUTH, MASSACHUSETTS**  
(BRISTOL COUNTY)

PREPARED FOR  
**RESOLVE SITE GROUP**  
SCALE: 1"= 80' DATE: SEPTEMBER 30, 2005

**MERIDIAN ASSOCIATES, INC.**  
98 HIGH STREET  
DANVERS, MASSACHUSETTS 01923  
TELEPHONE: (978) 739-9130  
WWW.MERIDIANASSOC.COM

69 MILK STREET, SUITE 302  
WESTBOROUGH, MASSACHUSETTS 01581  
TELEPHONE: (508) 871-7030

SHEET No. 1 OF 1 PROJECT No. 4435